

Manufacturers, importers and wholesalers whose products are sold at retail in Illinois by numerous retailers, may assume the responsibility for accounting and paying to the Department all tax accruing under the Act with respect to such sales, if the retailers who are affected do not make a written objection to the Department to the arrangement. See 86 Ill. Adm. Code 130.550. (This is a GIL.)

September 14, 2004

Dear Xxxxx:

This letter is in response to your letter dated April 27, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

As the accountants for three taxpayers that presently comply with all appropriate Illinois sales and use tax collection, remittance and return filing requirements, we are writing to respectfully request consideration by the Illinois Department of Revenue (the 'Department') of the taxpayers' desire to file a single combined return on a prospective basis. As explained below, the taxpayers experience a substantial administrative burden from complying with the present requirements and expect that much of this would be obviated by the Department's acceptance of its request. As a practical extension of this, it appears that the Department may also experience increased efficiencies.

The purpose of this letter is to outline the general facts and circumstances at present, describe the taxpayers' proposal in more detail and commence a productive dialog with the Department whereby a mutually beneficial agreement may be reached that is responsive to this request. Based on our brief and informal telephone discussion with a Department representative, we were advised to forward this written request for consideration to you as we understand there are no present Illinois tax statutes, regulations, administrative policies or procedures the Department has adopted that provide for this.

## **Background and Present Illinois Sales and Use Tax Compliance Posture**

The three taxpayers are corporate legal entity affiliates that encompass the Illinois business of a large organization consisting primarily of retail and other channel merchandising of consumer products. As one may gather from a cursory understanding of the nature and scope of its business, the associated administrative burden of tax compliance, including making regular multistate sales and use tax filings, is substantial. In fact, the returns that the three entities regularly file with Illinois are among the literally hundreds of other filings and related remittances that are made each year at significant cost. Inasmuch as the quantity of filings and separate underlying remittances is a primary contributor to this burden, the organization continuously seeks opportunities to mitigate this cost to the extent possible, while maintaining the integrity of the information required to be communicated with respect to its Illinois and other state compliance obligations. The concept of replacing the multiple Illinois sales and use tax filings for each taxpayer entity with a single filing that is representative of the collective business is logical one that the organization is requesting the Department consider as it works to increase efficiencies in this area.

### **Proposal of the Taxpayers**

We have informally set forth the following high-level particulars of a conceptual proposal that the Department may consider in evaluating whether, under its authority to administer Illinois sales and use tax collection and remittance, special permission can be granted to the taxpayers to file a single return prospectively:

#### *Nature and Content of the Purported Combined Return*

In furtherance of its objective to limit the overall amount of returns and quantity of separate remittances, the taxpayers propose to file a single Form ST-1 for each applicable period. This return would:

- Include reportable sales of each taxpayer for the applicable period, based on a summary schedule that would be attached;
- Include a single remittance for the combined tax due from the collective taxpayer operations for each reporting period;
- Report pursuant to a single registration/identification number that is appropriate under the circumstances, whether that be under an existing number of one of the taxpayers or a new number to be designated by the Department based upon a new application the taxpayers would cooperate to complete and file.

#### *Responsibility for the Taxes Collected*

One issue that we anticipate may arise regarding this type of request is whether the legal responsibility for the tax collection and remittance functions of the three respective taxpayers may be altered in granting such a request, and if so, how this may be addressed. In contemplating this proposal, the taxpayer entities, as closely held affiliates, would be open to evaluating a legal assumption of some sort of prospective responsibilities of each of the applicable taxpayers by the designated single filer, if necessary, for purposes of facilitating the process.

### *Audits and Other Inquires*

In a manner similar to the way in which responsibility for the Illinois sales and use tax could be assumed by the designated filer of record, such designated entity could also serve as leison on behalf of the included taxpayer affiliates regarding Department audits and other inquires. To support this, each included taxpayer-entity would continue to maintain its distinct supporting information.

As with past reporting, the taxpayers would remain extremely responsible with respect to their Illinois sales and use tax responsibilities in the context of the combined reporting requested and would continue to fully cooperate with the Department in this regard.

### *Other Considerations*

It may be of interest to note that the taxpayers have recently received permission from the New York State Department of Taxation and Finance to make a prospective combined sales and use tax filing in response to a similar request we made on their behalf. While we acknowledge that the New York reporting and processing schemes may vary in some respects from that of the Department, this state's taxing authority was able to accommodate this request as a matter of policy and in the absence of an existing statute, regulation, procedure or pre-existing policy. Considering this, we are confident that a mutually beneficial arrangement can be developed with the Department in response to the taxpayers' request. Moreover, it should be noted that another state, Florida, has verbally approved our request but we are awaiting written confirmation.

Other than the above, the taxpayers have not identified any other particular matters that may need to be addressed in order for the Department to evaluate this request. However, given the general nature in which the above has been outlined, we remain open to working with the Department on behalf of the taxpayers to mutually develop the above as well as consider any other issues that the Department may identify.

### **Conclusion**

Thank you in advance for your time and consideration. While we appreciate that this request may be somewhat unique, there are measurable benefits in efficiency that the taxpayers and the Department alike may experience that we believe are worthwhile to evaluate and accommodate to the extent possible. Since we understand that the Department's role includes continuous improvement in compliance processes and interface with taxpayers, including those in the business community, we look forward to your response.

If you have any questions in the interim, please do not hesitate to contact PERSON.

I apologize for the delay herein in getting a response to you. Enclosed is a standard Agency Agreement the Department utilizes when a manufacturer or wholesaler wishes to assume liability for collecting and remitting Retailers' Occupation Tax on behalf of its distributors.

Please refer to 86 Ill. Adm. Code 130.550, wherein it is permissible for manufacturers, importers and wholesalers whose products are sold at retail in Illinois by numerous retailers, and who wish to do so, to assume the responsibility for accounting and paying to the Department all tax accruing under the Act with respect to such sales, if the retailers who are affected do not make a

written objection to the Department to this arrangement, and provided that such arrangement in any given case is acceptable to the Department.

Please keep in mind that if distributors who are affected by the agreement make written objection to the Department, such distributors may opt out of the agreement and remit their own taxes. The registrant would assume full responsibility for the collection, accounting and reporting of tax from the independent affiliate taxpayers on the retail price of the tangible personal property sold in Illinois.

Should your clients wish to enter into the Agency Agreement with the Department, you must complete and return the enclosed form to Gail Jayne for approval. You may contact her at:

Ms. Gail M. Jayne  
Illinois Department of Revenue  
Office of Central Registration  
Mail Code 3-222  
101 West Jefferson  
Springfield, Illinois 62794

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

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